

# House Homeland Security Subcommittee on Transportation Security Holds Hearing on Risk-Based Security Efforts

March 14, 2013

HUDSON:

The Committee on Homeland Security Subcommittee on Transportation Security will come to order. Now the subcommittee is meeting today to hear testimony on TSA's risk-based security programs from the Administrator of the Transportation Security Administration, the Honorable John Pistole.

I would like to welcome everyone to the subcommittee's first hearing of the 113th Congress and thank our distinguished witness for taking the time to be here today. You have a tough job Mr. Pistole. When I visited your headquarters last month, I was impressed by your operation and the team you've assembled. We appreciate your service and look forward to hearing from you today.

The topic of today's hearing is Risk-Based Security which is naturally the next step in advancing security procedures. After all, why should the federal government devote precious taxpayer dollars to low-risk people, places, or things? One move Administrator Pistole has made to devote more resources to risk-based security is to remove certain items from the prohibited items list for passengers' carry on items.

It's critical that members of this committee, on both sides of the aisle, work with you as we move forward with the implementation of any new policy changes. As I said, you have a difficult job, and we want to support you. But we must have open and clear communications and it should be a priority for us to put a strategy together so that you're not faced with Congress pushing back against simply, common sense things you're trying to do, because they felt like they didn't have enough information.

Moving forward, we must help each other in advance of major policy changes to educate the rest of our colleagues in the House and appropriate stakeholders on the reasoning behind such decisions. The open and proactive approach will reduce pushback like the kind we've seen the last few days. And allow all of us to work together on rolling out the risk-based security policies that directly benefit passenger safety, ease of travel, and ultimately make TSA a leaner, more efficient agency, and effective agency.

HUDSON:

Understandably, immediately after 9/11, risk-based security was easier said than done. Federal agencies, including TSA first had to figure out a way to analyze risk in a reliable way and then share and operationalize (ph) that information. Ten years and \$65 billion later, the TSA has -- has finally begun to embrace and implement risk-based security at airport checkpoints. It's been a long time coming but it's very welcome.

Those of us familiar with the progress TSA has made toward risk based security over the last two years are grateful for it. Programs like Pre Check are an encouraging step in the right direction. Just last month, I had the opportunity to visit the Charlotte Airport and -- and see the very impressive operation there, very professional individuals are working for TSA at that airport.

But the fact that TSA still has a long way to go to improve its effectiveness and its efficiency.

My constituents back home in North Carolina recognize that the terrorist threat requires us to remain vigilant in our daily lives, patient when it comes to security measures we are forced to undergo at airports and understanding of the enormous resources required to keep us safe.

Just like ordinary Americans, Washington must continue to tighten its belt and learn to do more with less. Seeking out efficiencies is imperative when the federal government is carrying over \$16 trillion in public debt and every day, we borrow over \$4 billion just to pay down interest on that debt. We must find ways to come together over common sense savings that are bipartisan and practical at all levels of government and - and TSA is no exception.

In my view, TSA implements risk-based security in a responsible way. It could be a win-win for our security and for our economy.

First, it takes the focus off lower risk individuals like elderly and disabled children.

Second, it gives TSA the opportunity to evolve its procedures and reduce its long term operational cost. With the privilege of serving in the Congress and as chair of this subcommittee, cutting unnecessary and wasteful government spending is one of my top priorities.

To that end, I have four primary objectives for this subcommittee during this Congress.

The first is advancing risk-based security programs and policies, which is of course, the topic of today's hearing.

Second, addressing technology procurement and looking at flaws and looking at ways we can improve the procurement process.

Number three is streamlining TSA's regulatory process.

And number four is strengthening collaboration with the private sector.

I would love to see TSA succeed on all these fronts and think that under Administrator Pistole, they have taken meaningful steps in the right direction. I will do everything in my power to assist in this process and - and part of that means asking tough questions and occasionally offering criticism. While he may not -- we may not agree all the time, I view opportunities like today as a chance to work together, Administrator Pistole, to do what is right for the American people.

As we interact in the coming years, I look forward to continuing a productive conversation with Administrator Pistole, with stakeholders inside and outside of government, with Ranking Member Richmond and the bipartisan members of this subcommittee on the difficult issues that we face.

At this time, as soon as the -- the Ranking Member was not able to join us yet, we'll -- we will -- and seeing as the chairman is not here, we'll move directly into testimony from our witness.

We're pleased to have Administrator Pistole before us today on this important topic. Mr. Pistole has been the administrator of the Transportation Security Administration at the Department of Homeland Security since 2010. As TSA administrator, he oversees the management of approximately 60,000 employees. The security operations of more than 450 federalized airports throughout the United States, Federal Air Marshal Service and the security for highways, railroads, ports, mass transit and pipelines.

The chair recognizes Administrator Pistole to testify.

PISTOLE:

Well thank you and good afternoon Chairman Hudson and former Chairman Rogers, other distinguished members of the subcommittee and those who will be joining us, thank you for the opportunity to testify today on risk-based security changes TSA is making to better protect our nation's transportation systems

and the traveling public from acts of terrorism while facilitating the best possible movement of people and goods.

I also want to thank the -- the members of the subcommittee for your support for our risk-based approach we're using to carry out our transportation security responsibilities.

Virtually all of the RBS, as we call it, changes we've made thus far have been -- been positively received and help us to move away from that one-size-fits-all approach that was stood up after 9/11. And given my recent decision to remove certain items from what's called the prohibited item list, the subject of this hearing is quite timely and I'd like to address that issue up front.

So over the last two years, based on questions raised by the Senate in my confirmation process, I requested a -- a team of TSA security experts to assess items on this prohibited item list and to make recommendations on whether we should modify the list in any way.

My decision to change the items that I announced on March 5 followed a careful analysis of a number of different factors and I'll run through those briefly.

First, we evaluated the latest intelligence and threat information from the U.S. intelligence and law enforcement communities, that is how are terrorists trying to attack us now and how has that changed since 9/11?

Second, we considered the potential increase risk to passengers, flight crew, fellow air marshal (inaudible), and the TSA workforce.

Third, we assessed how a change would impact our security operations at the checkpoint and the traveling public.

Fourth, we evaluated whether the change would increase the risk of a successful terrorist attack to bring down an aircraft.

Fifth, we looked at how our current policy aligned with international security standards.

Sixth, given current budget restraints that you mentioned, we assessed how this change aligns with our goal to provide the most effective security in the most efficient way.

Seventh, we are mindful of the issues raised by the flying public about interactions with TSA over the years and concern -- and concerns raised by many in Congress including the subcommittee to apply more commonsense to aviation security including specifically reviewing prohibited item lists.

Finally, we discuss the pros and cons of continuing to restrict the traveling public from carrying a particular item aboard a commercial aircraft which is in part responding to the quote, "hassle factor" that TSA has come to represent for so many Americans.

The deliberate approach we took in my final decision is consistent also with the recommendations of the 9/11 Commission for TSA to quote, "not risk -- or -- or to set risk-based priorities to protect transportation assets," end quote, and to quote, "give priority attention to improving the ability of screening checkpoints to detect explosives on passengers." And again, this is from the 9/11 Commission report.

Now while I can't go into specific details in this open hearing setting, we do know from the intelligence community that terrorists such as Al Qaeda and their affiliates and inspired groups remain focused on attacking Western aviation in particular. We also know that the threat to aviation from these groups is from nonmetallic improvised explosive devices such as the liquids explosive plot we saw from the U.K. in 2006,

the bomb used by the so-called Underwear Bomber on Christmas Day 2009, the toner cartridge printer bombs from Yemen placed onto our air cargo flights destined for Chicago in October 2010 and most recently, the improved next generation underwear device also from Yemen intended for a passenger jet on its way to the U.S., but fortunately in a -- in a stunning intelligence coup, intercepted by a foreign intelligence service in April of 2012.

Now while the ultimate goal that a terrorist might be the successful attack within the U.S., against a U.S. commercial aircraft changes to aviation security that we've made here since 2001 have resulted in every attack attempt since -- since 9/11 emanating from overseas aboard aircraft flying to the U.S.

So we're -- over the past several years, TSA has placed a great deal of emphasis on not only the layers of security we have here in the U.S., but working with our international partners to strengthen the international security standards and achieving harmony among the international community. So in that regard, in August of 2010, ICAO, the International Civil Aviation Organization, changed aviation security standards to permit knives with a blade length of 6 centimeters, approximately 2.36 inches or less to be carried in the cabin of the aircraft.

Since that global change and excluding U.S. originating passengers there have been over 5 billion commercial airline passengers worldwide allowed to carry these knives. We are unaware of a single incident involving these -- these small knives on commercial aircraft.

With hardened cockpit doors, better identification of the individual passengers against terrorists watch lists, and thousands of armed pilots here in the U.S. and the demonstrated willingness of passengers to intervene in -- in a determined way, it is the judgment of many security experts worldwide, which I agree with, that a small pocket knife is simply not going to result in the catastrophic failure of an aircraft. An improvised explosive device will. And we know from internal covert testing, searching for these items which will not blow up an aircraft can distract our security officers from focusing on the components of an IED.

Since my announcement last week, there have been a number of reports in the media, some of them accurate, some not, regarding the specific type of knives and sporting equipment that be allowed.

In general, we're talking about a small pocket knife and other common items such as a corkscrew with a folding blade, 6 centimeters or less in overall length.

Other types are -- are excluded. And I have examples of those on your charts if -- if the right time you care to see those or to help inform the -- the -- the subcommittee.

Similarly, box cutters and other razor knives remain prohibited. Of note, the type of knife we will permit is more restrictive than international security standards given by ICAO or even what is currently permitted to be brought into federal buildings across the country. So these are more restrictive standards that we're allowing in the cabin of the aircraft.

I clearly understand the concerns expressed by many including flight attendants, federal air marshals and some members of Congress and others with respect to the potential increased risk to passengers and flight attendants. In fact, my decision to be more restricted in the specific type of knife permitted was based on extensive discussion with my leadership team and concerns raised by the federal air marshals.

Similar concerns were expressed in 2005 when a previous TSA administrator changed the prohibited item list to allow small scissors less than 4 inches in length, screwdrivers less than 7 inches in length and knitting needles and things like that on the list.

Contrary to claims that we would see a rash of assaults on passengers and flight attendants using these items, that simply has not been the case. In fact, GAO published a report after that change, did a follow up

assessment and said there had been no -- zero security incidents where these items had been used aboard an aircraft.

The fact remains accurate through today and underscores a point that in aviation security, it is not the object per se that is dangerous but the individual who intends to use that object to inflict harm that presents the danger.

There are many other changes TSA has made (inaudible) to strengthen our capabilities to keep terrorists off commercial aircraft. Many of these changes reflect risk-based security initiatives we began implementing over two years ago, in an effort to shift away from that one-size-fits-all approach.

Similar to my decision to change the prohibited item list, these initiatives reflect analysis of the best available intelligence and sound risk management in principles.

So in conclusion, I -- I'd like play a brief FBI video reenacting the nonmetallic IED used by the -- the Underwear Bomber on Christmas Day 2009 which demonstrates the destructive power of these well designed and concealed devices that terrorists keep trying to use to kill us.

This is what I believe our TSA should be focused on and when we get the video, we can see it. So...

And Ranking Member Richmond, good afternoon to you also sir.

HUDSON:

Is staff queuing the video? Is that what we're? Okay. Maybe we'll come back to the video. Administrator Pistole, we appreciate you being here and know your time is valuable. At this point, the Chair now recognizes the Ranking Minority Member of the Subcommittee, the gentleman from Louisiana, Mr. Richmond, for any statement he may have.

RICHMOND:

Thank you Chairman Hudson and Administrator Pistole, I apologize for being late but I was with your boss and I would assume you know how that goes. Let me thank you for being here with us today and providing the subcommittee with information about how TSA intends to improve its risk-based approach to security screening.

I also look forward to hearing more about TSA's efforts to secure our surface and mass transportation systems and particularly its efforts to address rail security. As terrorist threats to our nation's transportation systems continue to evolve, it is vital that our approach to transportation security adapts to the threats and addresses the vulnerabilities.

Since TSA's establishment, its aviation security policies have sparked dissatisfied comments from the flying public. Airport screening has been described as lengthy, invasive, and at times, humiliating. I'm sure you have heard these same concerns, and understand that you have initiated risk-based screening procedures to address those very concerns.

Among the programs developed in accordance with risk-based approach is the expansion of the pre-check program which allows for certain frequent flyers to voluntarily submit additional information prior to arrival at the airport, to receive expedited screening. I'm supportive of the ultimate goal of this policy and I look forward to working with TSA to sustain and expand these programs.

I also look forward to working with you to improve how all of these programs will improve the screening experience for all passengers, not those just in the expedited programs. As my fellow colleagues can attest

to, we must develop a comprehensive approach when expediting security screening, one that will have greater applicability for the general flying public.

You recently announced a change in the prohibited items list that has been widely criticized. And while I as a member of Congress profess to know what I know and know what I don't know, I generally yield to those with the experience and the expertise in making those decisions. So in that sentiment, I would not question your judgment, but I will question the process.

And we have a number of stakeholders from flight attendants to TSA agents to passengers to airline pilots that should always be, at least in the conversation, not dictate policy, but should be involved in the process. So I do not believe that important decisions such as that can properly be made in a vacuum or without advance comment and continued conversation with the stakeholders that I mentioned.

I look forward to working with you to accomplish our goals and your goals. And on a separate note, we must also address the importance of protecting our transportation systems and ensuring their resiliency throughout any man-made or natural disaster.

New Orleans, my hometown, is home to the Louisiana, I mean to the Louis Armstrong International Airport which serves as a primary transportation hub for the region. Last year New Orleans welcomed over a record 8.5 million visitors with nearly half of those people arriving by airplane.

In addition to the airport, my district is home to three critical deep water ports, the Port of New Orleans, the Port of South Louisiana, and the Port of Baton Rouge. These ports make up the largest port system in the country, and one of the largest in the world, connecting 32 states to worldwide markets. Louisiana's extensive network of railroads, barges, interstates, highways and airports, ensure that raw materials and finished products reach millions of Americans in a timely and efficient manner.

A natural or man-made disaster affecting the New Orleans area, can severely impact the flow of commerce and potentially disrupt the region's economy. Administrator Pistole, I look forward to working with you, Chairman Hudson, Ranking Member Thompson and the other members of this committee to ensure that our transportation systems remain a priority.

Again, I thank you for being here today and I look forward to the hearing. And I yield back.

HUDSON:

I thank the gentleman. And I'm told that staff has the video ready. Do we want to put that up now? (VIDEO EXPLOSION)

And the Chair's understanding is that that's the size of the IED in the latest attempt that was thwarted through intelligence.

PISTOLE:

That's right Chairman, and this is the type of device that I want our security officers looking for, just for comparison purposes, it's not much different than the size of this cup of water.

HUDSON:

Great, I appreciate that. I will now recognize myself for five minutes for the purpose of asking questions.

Mr. Pistole, there's been a lot of discussion the last few days about the TSA's decision to allow penknives on aircraft. I would argue that there's been more coverage surrounding the difference in blade lengths than

the report of the alleged IED slipping through security undetected. How can we trust that risk-based security is working and that your team is focusing on real threats like the one that we saw in the video, when we just saw reports of a serious lapse in safety for the traveling public?

PISTOLE:

Thank you Chairman. And that's what risk-based security is all about. Trying to identify what are the most significant risks to, in this instance, aviation security, and making sure that our officers and our entire U.S. government national security team, is trying to be as precise and focused on those threats that can cause the greatest damage.

And so if you'd like, I could show, for the subcommittee, what these items are that have already been on the list, allowed since 2005. If we could show, so on the left here, if you can, it's kind of hard to see from there, but we have items such as a scissors and the knitting needles and the 7 inch screwdrivers.

Those have all been allowed since 2005. So we've had billions of passengers, approximately 620 million a year, travel in the U.S. with these items permissible, permissible and there has not been a single incident involving those, in terms of attack on passengers, flight crew, Federal Air Marshalls, anybody.

What is on the right of that white divider there, are the small pocket knives, penknives, that I announced last week, would now be permitted for those eight reasons that I identified in my opening statement.

Now just in terms of contrast, we also have, over here, those items that would still be prohibited, because of their nature. And we went to describe those in some detail. Even though some of them may be shorter than the 6 centimeters, because of their construction or their use, some have been described as skinning knives for hunters, other things are simply tactical weapons. Those will still be excluded, as well as box cutters.

So just in terms of contrast, these are things we will continue to exclude. These are the things, that given the overall intelligence from the community, these are not things that terrorists are intending to use. It is those, the non-metallic IEDs that can blow up an aircraft, that is the greatest threat. And that is what risk-based security is all about.

HUDSON:

I appreciate that. Will screeners undergo additional training that will focus on how to better detect explosives and other major threats instead of some of these items that you've now taken off the list?

PISTOLE:

Yes and that's an ongoing process. So what we have had, really since Christmas Day 2009, is how do we best detect, not only through our security officers, but our technology? And for example, last year with this second, next generation plot that came out of Yemen, what we learned is that the explosives that the terrorists were using was a new type of explosive that our explosive detection equipment, not only here in the U.S., but worldwide, was not calibrated to detect.

And so we went back and recalibrated all the explosive detection equipment we had. And additionally, our canines, who are such valuable parts of our layer of security, they had not been trained to detect that type of explosive, because it was a new one. Never seen before in the world. So we went back and trained them, imprint them with that type of scent so they would be able to detect that.

So it's that type of ongoing risk-based intelligence-driven, so we take the intelligence and then we train our security officers to detect these type of devices. If I could just comment on that Newark situation. So this is

part of Internal Red Team testing that we do. We're always trying to push our officers to make sure that they can find the most dangerous items.

And in that instance, it was a small device, obviously because of sensitivities I won't go into detail. But it was not much larger than a deck of cards, but at least half the width or the depth of it. So in that instance, it was artfully concealed by our security officer who was doing the covert testing. And although a pat down was done, it was not found. So what we did was gave immediate feedback, say okay you did the pat down, but you didn't find it. Here's why. So that's what we use then as a training tool for our security officers around the country.

HUDSON:

Thank you sir, I appreciate that. Are you looking at any additional items that you may want to take off of the prohibited items list and what's that process like for looking at future?

PISTOLE:

So again, this goes back to my Senate confirmation where I had a specific request from a particular Senator who asked particularly about small knives. And so as part of my confirmation, I had to agree to review that. So this has been an ongoing process for over 2-1/2 years.

We look for, obviously, the latest intelligence. But it really comes down to how can we best utilize our resources, however they limited they may be. And with sequestration and future budgets, and all of those issues, that you're very well aware of, how can we make sure we're most focused on those items?

HUDSON:

Thank you sir. The Chair now recognizes the Ranking Minority Member of the Subcommittee, the gentleman from Louisiana, Mr. Richmond for any questions he may have. Mr. Richmond you're recognized.

RICHMOND:

Administrator Pistole, you speak, just starting where you left off which is your Senate confirmation and your agreement to look at small knives. And I know that you have a Prohibited Items Working Group. Did you use that group? Did you bring in stakeholders to talk about the shift in a policy concerning small knives?

PISTOLE:

The initial working group was formed internally, obviously I wanted to get the TSA opinion before I went outside to see, okay what does TSA say about this? And that involved a number of people across the organization, including input from the workforce around the country through a couple of different mechanisms.

One is what we call the Idea Factory. It's kind of like an electronic suggestion box, where people can send in suggestions. And we received over the last 2-1/2 years, I've seen hundreds and hundreds of suggestions to do just that, to remove small items, small knives and other things from the prohibited item list.

This working group convened and met for two weeks in 2011 and then following up last year to assess the entire list from several respects -- what the intelligence tells us; what are the threats; (inaudible) this impact, and those seven or eight things I went through in my opening statement.

And then looking at what does that mean in terms of our resources at the checkpoint. Does this help the checkpoint? And so just for example, Congressman, every day still today, we of course find on average four guns at checkpoints, which slows things down.

But we also find about 2,000 of these small pocket knives every day -- every day across the country, about 2,000 of these -- of these small pocket knives. Now, on average, that takes two to three minutes for the pocket knife to be identified in the carry-on bag through the X-ray, for that bag to be pulled, for the bag to be opened, and then for that -- the knife to be found and then the bag closed up and then run back through the X-ray -- so anywhere from two to three minutes times 2,000 incidents every day.

RICHMOND:

Well, again, I started by saying that I don't question your judgment because you do what you do, and we have to trust that you're making the right decisions. My question is whether the number of professional associations and airlines -- the airline pilots, the law enforcement officers association, the flight deck officer association, federal government employees, and the flight attendants association -- that they have real and meaningful input.

I'm not asking you to defer to them, but a lot of times it helps if they're at the table when you're making a decision so that they're privy to the information that you have.

PISTOLE:

Understood, Congressman. And I recognize that based on a classified intelligence briefing that I provided for 12 representatives of flight attendants associations yesterday, I could have done a better job of bringing them in earlier, giving them that classified intelligence briefing to tell them about what the -- the actual threats are, the ongoing threats are, the ongoing threat, where they're coming from, how they're being (inaudible).

So I could have done a better job of that, not only with the flight attendants. I did notify a senior representative of the flight attendants association on November 30th of my intention to change the list as it involved knives. I also did a similar notification to a senior representative of pilots association after that, and the also briefed the -- the homeland security advisory council for the Department of Homeland Security in September of last year on this -- this idea, and got feedback in a closed setting with them.

So, yes, there were several opportunities that I did. And then, of course, with the international community, with ICAO, with the European Union, with Canada and Australia, that we participate in. But yes, to answer your question.

RICHMOND:

And I'll switch off of that. I'm sure some other members may cover it. In your testimony before Appropriations Subcommittee on Homeland Security, you mention that the delay in funding for TSA's threat assessment and credentialing infrastructure modernization program may delay the development and deployment in the changes to the TWIC program.

Can you tell me a little bit more about that? What programs and where are we?

PISTOLE:

Yes, so as you know, Congressman, we are very much interested in moving forward with a universal enrollment plan which would allow for individuals, whether it's a TWIC card, a hazmat endorsement, other

types of security threat assessments and vetting, to be consolidated, to get away from these stovepipes that frankly exist now.

So the -- the sequestration is potentially delaying the implementation of testing for the one visit under TWIC that we are so much interested in...

RICHMOND:

Correct, right.

PISTOLE:

So we're -- so yes, there is potential for that. If we don't get through this, then we will be adversely affected on the timing of that.

RICHMOND:

I see that my time is expired, so Mr. Chairman, I'm going to yield back. But I wanted to ask unanimous consent that the gentleman from New Jersey, Mr. Payne, be authorized to sit and question the witnesses during today's hearing.

HUDSON:

No objection.

RICHMOND:

Thank you.

HUDSON:

You're welcome, Mr. Payne. Thank you.

Let's see. At this time, the chair recognizes the ranking minority member of the full committee, the gentleman from Mississippi, Mr. Thompson, for any questions that he may have.

THOMPSON:

Thank you very much, Mr. Chairman.

I'd like unanimous consent to enter my opening statement into the record.

HUDSON:

Without -- no objection whatsoever. Thank you.

THOMPSON:

Welcome, Mr. Pistole. Sorry we didn't connect yesterday, but such is life. It would have helped me going forward.

In this group that you put together to come up with this policy, did it include federal air marshals?

PISTOLE:

Yes, it did. It did and in fact in my opening, I noted that because of their -- their strong presentation, their articulation of the risks and everything else involved, I actually changed what I was leaning toward in terms of simply harmonization with the international standards to make it more restrictive. So yes, a strong input from the federal air marshals.

THOMPSON:

What about flight attendants?

PISTOLE:

No, I did not have similar input from them.

THOMPSON:

You had similar?

PISTOLE:

Did not.

THOMPSON:

Did not.

PISTOLE:

Did not.

THOMPSON:

OK. I have a young lady who works on the committee who kind of lists some of the item that with this policy we'll be able to take on a plane. And I found out that a decision was made that we can take two golf clubs on a plane. How did we come to decide on two rather than three or four or one?

PISTOLE:

So the working group who -- which I described earlier -- looked at all the implications and the consensus and the recommendation was two clubs for whatever reason, and it could be one, it could be -- it's still up to the airlines whether they would allow that. So it's not a bag of clubs. It's two.

THOMPSON:

You say it's up to the airlines.

PISTOLE:

Well, the airlines can still decide what they allow in terms of the overhead bin.

THOMPSON:

I'm just trying to get some of the -- the history in how we arrived at this. This is a hockey club -- puck (inaudible) whatever. This is a -- this is a big deal. And I'm trying to figure out how this could not be perceived as something potentially dangerous to the -- to the people on planes.

Now, it might not bring the plane down, but I think it could cause serious harm to the people who are flying on the plane and I would have -- like to have -- see more thought go into it. But it's, you know, you've decided the policy. You talked to Congressman Richmond that right now you're losing time with knives going through the machine.

Explain to me now the difference that if you see a knife going through there that's 2.45 inches long, how are you going to stop it, and how that will be in any shorter period of time than the present policy.

PISTOLE:

A couple of factors there, Congressman. One is that our policy would require the person -- the passenger to take that out and put it in the bin just like they would any other metal device or something. So it's basically the divestiture of that. And so then as it goes through the X-ray, obviously it will be there just to be seen just like a watch or anything else would.

We're giving discretion to the TSOs to say they've been looking at these size knives for years. Our average TSO, as you know, have five year's experience. They are very good at this, but they will have discretion as to whether that is right around there, so there's not going to be measuring. They are instructed not to open the knives. We don't want any open knives at the checkpoint.

And then if it appears to be in compliance with the new policy, they will let that go. And we had a good briefing with -- AFGE, the union, when we notified them of the policy. One of the first questions was, well, will we give proper training to them; and then secondly, will you not punish them or penalize them in case they make an error in judgment. And we responded affirmatively in both of those.

So, yes, absolutely, they'll be trained.

THOMPSON:

So it's your testimony before this committee that the present policy that you have announced and proposed to implement does not cause any harm to the traveling public.

PISTOLE:

There's obviously any number of scenarios that could be raised. The flight attendants raised some with me yesterday. When we get into the "what if" category, that's what risk-based security is about -- "what if" and then we fill in the blank. And then we make judgments and decisions based on the probability, what the intelligence says, and then what the consequences may be.

So, there's no -- there's no guarantee here. So no, I'm not saying that. There's no guarantee. Part of this is just the question of what the American people and Congress think TSA's role and responsibilities are.

THOMPSON:

So if -- if Congress now says maybe you should reassess this policy, are you prepared to do that?

PISTOLE:

Obviously, if Congress in a bipartisan way has legislation that goes to the president and he signs, then obviously we'll adopt those -- whatever those issues are. Given all the input that I received, including the excellent input that I received from the flight attendants yesterday, I think the decision is -- is solid and it stands and we're planning to move forward with it.

THOMPSON:

Thank you.

I yield back, Mr. Chairman.

HUDSON:

Thank you, Mr. Thompson.

The chair will now recognize other members of the committee for questions that they may wish to ask the witness. In accordance with our committee rules and practice, I plan to recognize members who were present at the start of the hearing by seniority on the subcommittee. Those coming in later will be recognized in the order of arrival.

We'll begin with the gentleman from Alabama, Mr. Rogers. You're recognized.

ROGERS:

Thank you, Mr. Chairman.

And Mr. Pistole, thank you for being here and we are very fortunate to have you in this very important job. I've found you in my years on this committee to be very competent and capable. And I want to commend you on this list that you've come out with. I'd like for it to be little longer, but you've made a good start and I think it's common sense what you've done.

I do want to talk to you. You know, I'm a big fan of the PreCheck program. I think it's a great risk-based approach to screening. But as I've talked to you in the hearings before and in private before, we've got to push it out a little bit faster and work some of the kinks out. As you know, a lot of people are still confused about it. It's not at all the airports. And there's some inconsistent application.

Can you tell us, are you working with the airline partners on ways to clear up what the program is, how people can get in it, where it's available, where it's not? Can you kind of talk to us about that?

PISTOLE:

Yes, thank you, Congressman. And the airlines have been -- been great partners on this, the five major carriers, and then there are several others that are coming online later this year. So as you know we're currently in 35 airports, the 35 busiest airports. I announced recently the extension of five more airports, so we'll be at 40 here by the end of this month.

We'll add some additional airports later this year, but we'll also look at the major airports, the category X airports to add additional pre-check lanes at those airports. So, for example, at Atlanta-Hartsfield, on

Monday morning, instead of one lane or two lanes we may have three or even four pre-check lanes open to handle the -- that Monday morning rush of -- of commuters going through there.

We're also looking at ways to expand the known population in ways that allows additional people to go through. You're aware of what we're doing with what we call managed inclusion, pilot program in Indianapolis, Tampa, and now Honolulu. That's been successful.

As Ranking Member Richmond knows, we used a variation on that the day after the Super Bowl in New Orleans, where instead of 12,000, 13,000, 14,000 people at travel on average, 39,000 people left New Orleans that morning. Obviously the -- the passive (ph) screening canines that you're such a strong supporter of, those are key enablers for this strategy to move forward.

We're also working with a private industry. We put out a request for white papers that are due April 1st, where there would be a partnership between us and a private company that they would do vetting for our criteria of individuals who may want to sign up for a program such as pre-check. They do the vetting to our criteria, we then vet them and then we increase the population that way.

So...

ROGERS:

Would that be something that the traveling public would pay for out -- themselves to get this...

PISTOLE:

Yes.

ROGERS:

OK.

PISTOLE:

Yes.

And the other aspect is it has been complicated for some to sign up for global entry. The custom border protection which again it's a great program, \$100 for five years, \$20 a year allows you expedited reentry to the country, but it has been complicated for some. And so what we're working on with NTSA is to have a TSA pre-check sign up through a TSA structure so you don't have to go through CDP, you can go through a DHS portal to say, yes I want to go international travel, that's fine, I want just domestic.

What we found the last quarter of -- of calendar year '12, 41 percent of the people signing up for global entry, just wanted the TSA pre-check benefits. So exactly to your question, how can we maximize that. And that's what we're doing.

ROGERS:

But you know that -- I talked to you about this before -- but there is -- there is a -- I also would like to see you get to the point to where once you sign up and approve the pre-check, it works across all airlines.

PISTOLE:

Right.

ROGERS:

I know your airline partners have some proprietary concerns about that data.

Are you working toward a database that would protect their proprietary interest, but also allow travelers who use multiple airlines to -- to use pre-check?

PISTOLE:

We -- we are. And the airlines again have been good partners in this. We're -- we're not quite there yet, but...

ROGERS:

How long do you think it'll be before you get there?

PISTOLE:

I will have to get back with you on that, Congressman, because it has been something that frankly I've been hopeful that we would have already been there, but frankly I think because of some mergers and other issues that's (sic) complicated things a little bit for everybody.

ROGERS:

And then lastly, foreign repair stations.

Been 10 years since we've been waiting on a rule. Can you tell us that's gonna happen real soon? You gonna have us a rule pushed out?

PISTOLE:

I can tell you that.

(LAUGHTER)

ROGERS:

Can you tell me and mean it?

PISTOLE:

So -- well I actually -- there is actually good news. Today I got an update that -- that OMB has accepted the rule, and, so that starts a clock. And so there'll be a public notice of that shortly, and so we actually for the first time in quite a while we are making progress.

ROGERS:

Great, do you know how long that clock's gonna tick?

PISTOLE:

Well -- so they -- have a review period. I'd have to check with that, 60 or 90 days in this instance, because it is a final rule. And then, you know, like we will be --so sometime this year, I just -- that's where we are...

ROGERS:

You're certain some time this year it will be finalized?

PISTOLE:

Should be.

(LAUGHTER)

PISTOLE:

(inaudible)...

ROGERS:

That's a lawyerly response.

PISTOLE:

Should be, yeah.

ROGERS:

Thank you very much.

I yield back.

HUDSON:

Thank the gentleman.

The chair now recognizes the gentleman from California, Mr. Swallwell.

SWALLWELL:

Thank you, Mr. Chairman.

I ask unanimous consent that the statements in opposition to TSA's announced change to the prohibited items list that the committee received from the transport workers union and Delta Airlines be inserted into the record, along with public statements opposing the changes by the Coalition of Airline Pilots Association, the Association of Flight Attendants, the American Federation of Government Employees and the Federal Law Enforcement Officers Association.

HUDSON:

No objection.

SWALLWELL:

Good afternoon Administrator Pistole.

After September 11th, zero planes have been taken down by sharp objects where sharp objects would have been used.

PISTOLE:

Correct.

SWALLWELL:

My understanding, there have been zero attempts as well.

PISTOLE:

There was one attempted hijacking internationally if you're talking about domestically, there have been zero attempts. Internationally there was one attempt in 2009, it was a hijacking attempt with a plastic knife. Unsuccessful obviously.

SWALLWELL:

And also zero major stabbing issues with sharp objects?

PISTOLE:

Zero that I'm aware of.

SWALLWELL:

For me then, that begs the question that when we look at the number of attempts or successes that have taken place involving sharp objects, post-September 11th, the answer is there have been zero.

And that begs the question, can that number get better? And the answer is no. But it also begs the question, can that get worse? And to me, the answer is, yes. It can get much worse.

And so I ask, how does allowing sharp objects on board now accomplish the goal of maintaining zero planes being taken over, or having zero incidents involving sharp objects? And I also understand, Administrator Pistole, that the shift towards risk based threat assessment, and I appreciate the shift towards focusing on -- on IEDs.

PISTOLE:

Thank you.

SWALLWELL:

But just because this is a new threat does not mean that old threats still exist. And I would imagine that if we were to ask how many incidents occurred before September 11th involving sharp objects, we would also have found that the answer was zero, yet the threat was still real and tragically we paid the price on September 11th.

On this board, three knives (OFF-MIKE) ... reflected by the checks and the X.

I think most people out there would have a hard time telling the difference between what is allowed and what is banned. And I'm -- and I'm wondering, do you think that any one of these knives would be more or less dangerous than the other?

And, do you think one of these knives would be more or less successful in taking over an airplane and causing another terrorist attack?

PISTOLE:

Thank you, Congressman.

You raise a number of good points, and our working group, and experts considered those issues in -- in quite some detail. In terms of some -- some context, the -- the international -- again, air community has allowed these -- anything six centimeters or shorter since August 2010, again no attempts.

Here in the U.S., obviously, you see these items. Terrorists don't need to use those, they don't need to use these, they have things on board already, whether it's in first class, a metal knife or fork, whether it's a -- a wine glass or wine bottle that they break and use. There's any number of things that could be used as a deadly instrument.

The whole purpose of risk-based security is to take information that we have, both about terrorist intent and tactics, make sure that we are preventing prior attack -- attempts and the hijackings obviously on 9/11 which multiple layers of security that I'm sure you're familiar with, not just physical security.

On -- on the classified side, the intelligence about who's traveling, where they're trying -- all those things. So it really gets again to what is the intent of the person on board as opposed to the object. So if we simply focus on objects, then we're always behind the eight-ball. The whole purpose is to focus on the intent of the person, and so it really comes down to the mission TSA.

Is it to prevent disturbances by inebriated passengers on board? I don't think so.

SWALLWELL:

Administrator, but wouldn't you agree that if we looked at the checked knives that would still be allowed, these screen checked knives, which appear to be just slightly smaller in size than what would not be allowed, that in an orchestrated attack they could do great damage to our flight attendants and great damage to our passengers and perhaps, and hopefully not, but great damage to people on the ground when a plane could be used to as a missile.

PISTOLE:

Well, sir if you're asking whether I think individuals with those small pocket knives could take over an aircraft, take control of it, I don't think so, because of all the other layers of security we have in place, including the thousands of federal flight deck officers who are armed in cockpit, the hardened cockpit doors, the response of the -- of the valiant crew and the passengers who would not allow that to happen.

If we had a -- a group of terrorists if you will get on a plane here in the U.S., without anybody else in U.S. intelligence, law enforcement community knowing about those, they haven't come up on anybody's radar, then we've had a failure of the U.S. national security program, rather than just at a checkpoint.

SWALLWELL:

And I would just conclude, Mr. Chair, by saying, you know, for 11 years we have not had an incident, since September 11th, and I think largely because of a lot of the good work TSA has done and so that's why I'm asking, why now, and why do we want to go back.

So thank you, Administrator.

PISTOLE:

Thank you, Congressman.

HUDSON:

Thank the gentleman.

The Chair now recognizes the gentleman from Pennsylvania, Mr. Barletta.

Oh, rookie mistake.

The Chair now recognizes the Congresswoman from Indiana, Ms. Brooks.

BROOKS:

(OFF-MIKE) ... having been a former United States attorney, I actually served at the time that TSA was formed, and have been a member of the Joint Terrorism Task Force -- have helped lead that effort, and have been involved with law enforcement and your former agency the FBI for quite a number of years, and have been a defender of TSA and have often -- and have even visited TSA in my new role at the Indianapolis International Airport just within the last month, and visited with TSA David Kane running that agency there.

And I've -- have certainly been impressed by the manner in which TSA and your previous agency of FBI goes about making the -- the threat assessments, goes about making changes in rules and regulations and the amount of time and effort that goes into making those changes, and have incredible faith in our law enforcement agencies.

I know that the Indianapolis Airport is now part of, as we talk about changes whether it's in the type of items allowed, but you've also just started a risk based security program as you've mentioned called Managed Inclusion.

And it's being piloted at the Indianapolis Airport as well as Tampa. can you please expand on that a bit about Managed Inclusion?

What the experience has been, what the customer experience has been, how it's being administered, and how it's impacting not only efficiency, but what your hope is with respect to the safety of the passengers and -- and of those who travel, certainly those -- the pilots and the flight attendants who travel.

How is Managed Inclusion brought into the whole risk assessment procedures that TSA is administering.

PISTOLE:

Well, thank you Congresswoman Brooks.

And yes, Managed Inclusion is a -- a natural outgrowth and one of the -- the initiatives of risk-based security from the standpoint that I've heard from this committee many times and from many members of -- of Congress and the flying public, the fact that virtually everybody traveling every day is not a terrorist, so why treat them as such?

So the idea is to have a Pre-Check lane where those who are in Pre-Check and we've had over seven million people now go through Pre- Check including Indianapolis and I've received positive reports from David Kane, the FSD there, Federal Security Director in terms of the interaction and hopefully you've had a positive experience also.

Managed inclusion is recognition that if we can assess with some confidence that travelers who are in a regular lane do not have an explosive device on them such as we saw in the video, something like that through a passenger screening canines who -- a dog that screens basically the vapor so it doesn't pick up on that and then if the protection officers don't observe any suspicious behavior, then if the regular queue is busy and the Pre-Check lane is not so busy, then people could be invited to go through that. And so we started that November 1 in Indianapolis.

The day before Thanksgiving, which everybody knows is a fairly busy travel day, at the -- at that checkpoint, of course one of two checkpoints in Indianapolis, we actually had 31 percent of the traveling public go through the Pre-Check lane and again, it was a matter of as they went through, they're allowed to keep their jacket on, their belt, their shoes, their liquids, aerosol, gels, and their laptop in their -- in their carryon bag.

And then we basically asked them as they came through in terms of trying to get in terms of trying to get feedback from them, how was that -- people almost unanimously said, hey great, I appreciate this. So we give them cards, say well if you did enjoy this, basically as a free sample, sign up so you can have at least a high competency you'd be able to go through that on a regular basis.

So -- so we are piloting it and we'll continue that in Indianapolis, Tampa and I mentioned Honolulu. We're looking at some other airports that it might make sense in, but it really helps us try to provide the most effective (inaudible) in the most efficient way for the most significant threats.

BROOKS:

And is that essentially the type of system you used after the Super Bowl in New Orleans and that will there be those types of efforts at other airports where you have large conventions and large gatherings of people?

PISTOLE:

Exactly, Congresswoman.

So the -- the -- the notion that in -- in New Orleans as I mentioned, where there are special events, where there's a huge influx of people, we actually sent in over a hundred security officers and then as we reconfigured the -- one of the main checkpoints where there were six lanes to make five of them basically Pre-Check lanes. And so there -- even though there are long lines with these 39,000 people, they -- people were moving instead of just standing there for minutes at a time, people were moving virtually the entire time and got very positive feedback from a number of people, especially Ravens fans.

BROOKS:

Absolutely.

Thank you very much.

I yield back.

HUDSON:

Thank the gentlelady. I see that the gentlelady from Hawaii, Ms. Gabbard has also joined us today. I ask unanimous consent that she be permitted to participate.

Without objection, so ordered.

At this time, the chair will recognize the gentlelady from Texas, Ms. Jackson Lee.

JACKSON LEE:

Mr. Chairman, thank you.

Congratulations for your leadership of the committee. Congratulations to my friend and colleagues, Mr. Richmond for his service on the Ranking Member. Mr. Pistole, welcome, and as you know, we have had a very strong working relationship along with the Ranking Member over a number of years.

I remember distinctly the creation of TSA being on the select committee on Homeland Security and I remember distinctly sort of directing the TSO process of recruitment to be more effective way before your time to reach out into neighborhoods across America and I think you have generated a -- a team that is committed. I've supported you in your uniform change. I've supported you in the sense of the law enforcement concept. And I congratulated you on the Democratic Convention and how professional those individuals were.

Let me also acknowledge, Tom McDaniels, who I know is well trained having come from this committee who is here with you right in back of you.

But let me say that process is obviously a concern and I've always commented that to hear an announcement in the news however a member might have missed some other notice to their office is really both disappointing and challenging because you are associated with TSOs and I've spent a lot of my legislative career defending the competency of such.

Let me just ask a quick question, how will sequester impact your -- it needs to be quick -- I understand there might be a thousand that's going out by attrition and others. Can you just say yes, about a thousand will go out through attrition or retirement?

PISTOLE:

Yes, about at thousand through the end of May...

JACKSON LEE:

Will you cut any others on top of that?

PISTOLE:

Well so we have not put a hiring freeze on yet and we are just starting to limit overtime slightly but as...

JACKSON LEE:

So there may be longer lines?

PISTOLE:

There may be later this spring clearly going into summer.

JACKSON LEE:

And when I said was sequester, no one knows until you get to the epicenter, the crisis, the school let outs, et cetera.

So today, as we speak and on April 1, can a mother with two or three children carry her bottle of water and special -- special type orange juice through the line?

PISTOLE:

No, now you say special types, obviously medically necessary liquid...

JACKSON LEE:

Well, let -- let me just say, she likes a special brand, it's not sold in -- in the concessions so she -- so these innocent bottles of orange juice and water cannot be taken in.

PISTOLE:

They cannot.

JACKSON LEE:

And if I was to splash a flight attendant with orange juice and water, and I know there are flight attendants there and I have great respect for them, I assume they'd still be standing. If -- if -- if it was a bottle of water and I was a disgruntled passenger...

PISTOLE:

Yes, yes.

JACKSON LEE:

... they'd -- they'd be OK.

PISTOLE:

Yes.

JACKSON LEE:

We would think. Certainly wouldn't want them to be thrown but if you just took the water, they -- they would be OK?

PISTOLE:

Sure.

JACKSON LEE:

So -- so here's -- here's the question and -- and let me be above board. You may have had a meeting with the flight attendants. Over the years I've introduced legislation for mandatory defensive training. You had an answer to a question that I would beg to differ. You're absolutely right, my good friend is going to allow me just to share his example.

I thank him for his leadership. You're probably right, Mr. Pistole, that the airplane would not go down. But what you have is a compact area that flight attendants are dealing with passengers and under the new laws, no doors will be open for their relief.

And my question to you, I'm going to even leave out the little manicure set, but if I was to take this knife and I like my friend very much and to go like this to him, would he bleed?

PISTOLE:

I assume.

JACKSON LEE:

Would he bleed?

PISTOLE:

If you're saying you stabbed him?

JACKSON LEE:

That is correct.

PISTOLE:

Yes.

JACKSON LEE:

All right.

PISTOLE:

I assume he would bleed.

JACKSON LEE:

So -- so what we would have is either an organized series of activities that might injure every single flight attendant that is on that plane making that plane almost a moving disaster target.

Now we know that we have some very energetic passengers potentially that would come to the aid of these flight attendants. But as far as I'm concerned it would be a demobilized and a -- a -- a crisis situation that would occur and -- and I -- I understand the logic that says my TSOs have more important work to do. But my concern is, if it can injure then it is a problem. Your suggestion is that these are not eligible because they equate to something that could be explosive.

Some years ago we were talking about technology to detect what this might be. I'm sorry we didn't get to that point. But the very fact that we have -- and I will not do anything to my good friend -- let me clear the record, nor will I do anything on an airplane.

But we cannot in any way suggest that someone with some sort of mental illness, some sort of situation that brings about a tragedy, some series of incidences that we've had with a airline pilot who had some sort of medical emergency that required him to be tied down and as I -- as I know, let me just say this, generally speaking, domestic flights -- generally speaking, air marshals are there but no one knows what the schedule is. I just want to leave it at that. Is that accurate sir?

PISTOLE:

Yes ma'am.

JACKSON LEE:

All right.

So -- so here is my final point to the chairman. A final point is, it is very difficult for me to believe that we don't have mandatory training for our flight attendants, that the solution will be that we will add voluntary hours, and you can answer me whether you have the money to voluntarily train them I'm not sure, I know it's an airline issue, but that the fact that that you're allowing a weapon that can cause a terrible injury and you're allowing it to come on without pausing for a moment with the concerns of members of Congress.

I'd like this to go back to the drawing table and I'd like Congress not to have to have to introduce legislation, though I intend to do so for that reason. You need to stop this now. These cause bleeding, these cause injury, these can cause a terrible tragedy and I don't want to take it to the next length, it can possibly cause someone to lose their life.

PISTOLE:

If I may respond.

HUDSON:

Yeah, thank the gentlelady and I'll -- I'll give the administrator a brief moment to respond.

PISTOLE:

Yeah, and -- and first, Congresswoman, let me thank you for your strong support for the workforce at TSA. You have been a true champion of the workforce throughout your tenure, so thank you for that.

I think there's a fundamental disagreement or philosophy as to whether TSA should be responsible for disruptive passengers who are not terrorists, so -- so I view what the enabling legislation of -- of TSA and our mandate is to keep terrorists off planes. So whether the object as I had for almost 27 years as an FBI agent having a weapon on me, a hand gun when I traveled because I was authorized to carry that, that was not of concern because my -- there was no intent to do harm.

If -- if the suggestion is that we should somehow be able to screen for mentally and unbalanced or people who drink too much on flights and to try to keep them off the plane, I believe that's outside the scope of our mandate and we sure don't have the budget to do that. So, I -- I don't think you're suggesting that but I just wanted to -- to be clear that that's not what we are focused on.

The fact is, there are so many objects already on flights that can cause the type of harm you're -- you're talking about, my question would be what is the intent of the person with that dangerous object? If it's a person as you describe versus a terrorist, then it is a challenge and I think it's a good idea to work with the airlines to provide additional training for flight crew, everybody involved and we do not have the funding for that.

Thank you.

HUDSON:

I think the administrator for the answer.

And we understand we have a hard stop at 4:30 and so I want to get through Mr. Payne and Ms. Gabbard's questions, and my hope is we can -- we can get through a second round (inaudible) as possible.

GABBARD:

I thank the chairman.

HUDSON:

At this point, the chair recognizes the gentleman from New Jersey, Mr. Payne.

PAYNE:

Thank you, Mr. Chairman.

I'd like to thank the ranking member, Mr. Richmond on the committee, and also the ranking member of the whole committee, for being here.

And, you know, I in just listening to you, Mr. Pistole, you know, I -- I don't remember hearing you say that the TSO has more important things to do, but, you know, I don't think there's anything more important than making sure and securing the safety of passengers. And irrespective of what size the knife is, I think it's a flawed policy.

It -- it -- for the reasons that you just mentioned, why give anyone another opportunity if they are intoxicated, if they are mentally ill, to -- for them to be in the position to have something that they then could use is -- is a problem. So -- but that's not my main focus. The committee has done a great job in bringing that issue to light.

I represent the 10th congressional district of New Jersey that includes Newark Airport, which has unfortunately had a troubling security record over the last several years. And it's interesting, you know, one of the planes that emanated in 9/11 came out of Newark, and the reason that this committee exists now because of that tragic event, you know, 11 years ago.

Major security breaches continue to occur there. So I'm deeply concerned that the proper resources are not being allocated to Newark Liberty, and that insufficient training is being -- is not being conducted to ensure that TSA management has the resources and the ability to do what was necessary to make travel safe and secure for the people in my district and the millions of people who use that airport every year.

You know, these breaches are nothing less than alarming. Just last week, the press -- the press -- the press reported on some very disconcerting results of a covert so-called "red team" test that was conducted by TSA at Newark International Airport. It was reported that the TSA had failed to detect a fake bomb being carried through the airport by an undercover TSA investigator.

Now, in its response to this, the TSA stated that due to the security -- the security-sensitive nature of these tests, TSA does not publicly share the details about how they are conducted and what specifically is tested or the outcomes.

You know, nevertheless, you know, I opened a newspaper today to read another report stating TSA does not report all incidents to its management and that Newark Airport is one of the worst offenders.

Now, if the details of security-sensitive nature tests are not being released to the public, I want to know how I read this in the press. So my first question to you is: What is being done to make sure that these major breaches at one of the most busy airports in the nation are not a reoccurrence?

PISTOLE:

Thank you, Congressman.

First, we have a strong federal security director there, Don Drummer (ph), who works closely with the Port Authority police. I met with Mr. Foye -- the head of PAP -- Pat Foye last week and head of security with the Port Authority in New York to go over some of those issues, because we have had some incidents at Newark.

The whole purpose of the red team testing -- those are our folks who I would describe as "super terrorists," because they know exactly what the technology's capabilities are of detection. They know exactly what our protocols are. They can create and devise and conceal items that only the best terrorist in the world would be able -- not even the best terrorists would be able to do. So these are super terrorists in terms of covert testing.

I would be glad to give you -- show you the exact item that was used in that covert testing. I did that yesterday with the flight attendants representatives in a classified setting. So you can see what the object is and how it was concealed. I'll go -- I'll tell you exactly what happened. We just don't publish that because we don't want terrorists to...

(CROSSTALK)

PAYNE:

I'm not very concerned about what the item is. I'm concerned how it got through.

PISTOLE:

Well, I think if you saw the item and got a description of what the covert test was, you'd have an appreciation for how it got through and where we did not do the job we should have. And so we give immediate feedback to the security officer who was close, but missed it. And then we then use that as a training tool for the rest of our workforce.

PAYNE:

So -- so, you know, I'm very concerned about the press getting this if it's a covert operation. And, you know, terrorists read newspapers as well.

PISTOLE:

I'm concerned about that also, Congressman. That -- they should never become public. Somebody leaked that information. I don't know who. We are looking into that. And if we find out who leaked that information, whether it was a TSA employee or another agency, there's a number of -- we did -- that happened on February 9th, and then it was briefed two weeks later. It was the day of the briefing to a number of people where it got leaked to the New York Post.

PAYNE:

OK.

HUDSON:

I thank the gentleman.

PAYNE:

I yield back.

HUDSON:

The chair now recognizes the gentlelady from Hawaii, Ms. Gabbard.

GABBARD:

Thank you very much, Mr. Chairman. Thanks to you and the ranking member and members of the committee for allowing me to participate.

I just have one question. I'll try to keep it brief.

Administrator Pistole, thanks for being here.

In your prepared testimony, you cited TSA's efforts to expand active military members' access to PreCheck. I applaud this effort. I've had the honor and privilege of serving with many amazing heroes in our country, but have some concerns that have been brought up by the Wounded Warrior Project that the screening of severely injured and disabled servicemembers and veterans is frequently a confusing and humiliating process.

The screening that we've heard is often inconsistent with published TSA protocols and results in some negative experiences for these great individuals, such as removing clothing items, belts or shoes can be difficult with someone who has lost an arm or a leg, for example. And we've also heard of complaints about

the cascope (ph) which your screeners use, that it can be viewed by others, and veterans being asked to remove clothing in front of other travelers or remove their prostheses, despite guidance that the screening can be done without that removal.

So I'm aware of the call center that's been established. Two questions -- I'm curious how many people actually use the call center, as well as besides that what's being done to ensure that they receive a screening experience that is dignified?

PISTOLE:

Well, thank you, Congresswoman, for your interest. I share your concern about the way we treat these heroes. We are making progress in terms of how we deal with wounded warriors, particularly for example locally here, where they are released from Walter Reed and they go to Reagan or Dulles Airport and it's their first flight.

We do have much improved protocols there because we see a number of wounded warriors. Part of our challenge is around the country, and in Honolulu, I will take a look at that.

I don't know the answer -- the number off-hand in terms of the call center. We do receive most of the calls are questions of information, rather than complaints. I'd be glad to share that with you. I just don't have those details.

We are putting out a new overall policy and protocols for persons with disabilities which could encompass a wounded warrior. So anybody with a medical situation, anything that could be considered out of the norm where they may need additional assistance, customer engagement, we have in all 450 airports designated what we call "passenger support specialists." This is something Congress urged us to do a couple of years ago. We've put that in place now.

So there is an individual at every airport that can -- is there to assist, particularly the wounded warriors who need that.

I'm given a note on the call center. In F.Y. '13 thus far, we've had 20,000 calls. I'd be glad to give you a breakdown of that.

GABBARD:

Thank you. I'd appreciate that information mostly because, as you said, this may be working for the first flight, for people who are leaving the hospital and making their way back home. But as you know, these are people who are facing incredible challenges for prolonged periods of time, not only for themselves, but for their families and should not be subjected to this type of treatment.

Thank you.

HUDSON:

I thank the gentlelady.

And we are up against a 4:30 hard stop. We will try to get in a second round of questions here. I'll begin by recognizing myself.

Administrator Pistole, it appears to me that every year, even with budget cuts, the number of personnel at TSA continues to grow. Just last week, we also saw on the news an order for \$50 million in new uniforms that were partially made in Mexico, and learned that as part of the union-led agreement, the transportation

security officer's uniform allowance nearly doubled to \$446 per year, which is more than the basic uniform allowance for servicemembers in the Army, Air Force, Coast Guard, Marines and Navy.

This leads me to wonder, is risk-based security failing to work? Or are we ignoring the efficiencies that it's supposed to bring about?

PISTOLE:

Thank you, Chairman.

First, that we had a contract expiring February 17th on the uniforms. DHS writ large started an initiative two years ago, I believe it was, for all departments of officers with uniforms to have a consolidated contract to achieve efficiencies and save money. That's still in process, so we had a contract expire on February 17th.

The \$50 million is actually the cap for two years, rather than what's been reported that's a one-year cost. So that's for two years. It is up from 2012. Part of that is because of the collective bargaining agreement. We did increase the uniform allowance. That's one of the 11 items that we agreed to negotiate with the -- with the union on.

So we did give them an additional allowance. It's still well below the OPM allowance, the overall allowance. And I have a chart that I'd be glad to share with the subcommittee comparing it to DOD in terms of officers and enlisted and how that all comes out. There's been a lot of misreporting on that, I'll say, and so we'll be glad to give you the figures to address -- exactly address that.

So I share your concern about the costs and will look to keep that in line.

HUDSON:

But in terms of personnel growth, is it that risk-based security is not working? Or is it that for some reason we haven't seen the ability to find efficiencies?

PISTOLE:

No. Actually, we have found efficiencies. I will say there was a significant increase between 2010 and 2011. Also in '11, we had additional officers which was a response -- administration- congressional response to the Christmas Day attack of '09. And then additional advances in technology and staffing to try to detect those nonmetallic, along with VIPERs (ph), K9s (ph) and inspectors. So those were all things that were added to our budget so then that was -- we have the increase from that.

So that was really the defining point. I do expect to see some efficiencies down the road as risk-based security matures and we're able to put more people through the pre-check lanes. I just don't have the figures for you now, but I look forward to working with you on that.

HUDSON:

Absolutely. And that will be my interest, as well as looking for ways to find these efficiencies to reduce the cost to the taxpayer as we get smarter and leaner at what we're doing so...

(CROSSTALK)

HUDSON:

... thank you.

And I'm gonna yield back the balance of my time to allow the ranking member an opportunity to -- to follow the question.

So at this time, I recognize the gentleman from Louisiana, Mr. Richmond.

RICHMOND:

And, Administrator Pistole, what I will do is just ask all of my questions up front so that you can answer them, and I'll try to leave some time for the ranking member of the full committee. I will leave some time for him, but, like I say, the ranking member of the full committee.

Going back to what Congresswoman Gabbard said about our wounded warriors, if there's any set of people in this country that deserve to have their own pre-checked, Trusted Traveler or Global Entry, then it's our wounded warriors. And then I would just ask that we consider putting them in a Trusted Traveler or pre-checked so that -- so that they don't do it.

And I -- I have personally witnessed it happen to wounded warriors. And it's -- it's not something that they deserve. And I know that you share that sentiment.

PISTOLE:

I would agree.

RICHMOND:

So I'm asking that -- that we really look into figuring out a program for them, whether it's a pilot, whether it's including them in another.

And with that, I've been getting a lot of complaints from my local airport about the treatment of the TSA officers that are there. And I know that there are some EEOC complaints and some others.

And I think that in the court documents, you have -- your office has argued that you all are exempt from a lot of those employment laws. Besides -- can you give me a list of the ones that you think you're exempt from?

PISTOLE:

I'm not sure what the individuals will be referring to, Congressman. When -- when Congress created us and the administration created us, they did create us as a hybrid or a unique organization that was not necessarily Title V (ph), the normal employment rules in there.

We've been in discussions about other opportunities for employees, and I'd have to look at in detail what they'd be referring to.

RICHMOND:

Well, I will get you that list. And I will also get you a letter detailing the complaints that I've received from my local agents as I walk through the airport. And now it's turnin' into e- mails and phone calls about just unfair work conditions and harassment and retaliation.

And I would just give you an example, because I think Super Bowl was a phenomenal success.

PISTOLE:

Thank you.

RICHMOND:

The airport and TSA's provided the workers on the line with water. The water was three years old. And it was visibly dirty from storage. So that I think is just an unacceptable treatment for people who are -- are really working very hard and who are partners with us.

So I'll get you a list. And I don't want to take any more time because I want the ranking member to have it. But I would like a response to -- to those when I get it to you.

HUDSON:

Thank -- I thank the gentleman.

The chair now recognizes ranking minority member of the full committee, the gentleman from Mississippi, Mr. Thompson, for any questions he may have.

THOMPSON:

Thank you very much, Mr. Chairman.

Mr. Pistole, last Congress this committee identified a security gap that would allow an individual on the no-fly list to take flight training on a plane with a maximum take-off weight of more than 12,500 pounds.

I'd like to have the clerk put on the screen a situation that occurred in 2010 in Austin, Texas, what happened when a plane hit a building like that.

Is that still the case today?

PISTOLE:

So, there have been steps taken under risk-based security to assess vulnerabilities and the consequences of something like this happening.

As I recall now, the Cessna single engine may be 3,000 pounds or something. And so, what we have done is worked with FAA to limit the time that a person would be able to be FAA -- get an FAA airman certificate before they would be able to solo. And then, of course, they have the medical exam requirements.

So that time is down to within a few days.

But, to answer your question, yes, there still is a -- a gap there that somebody -- a U.S. citizen, not a -- not a non-U.S. citizen -- a U.S. citizen could get that certificate, they would not be able to solo. They would be with a flight instructor. So a lot of the issues that were raised previously have been addressed, but there is still that (inaudible) issue.

THOMPSON:

And I can appreciate it. But right now, we can train a person to fly who's on the no-fly list. And there's nothing to prevent us from training.

PISTOLE:

So they could be trained in the sense that they would be with an instructor and then they would submit their application or they would get the temporary FAA certificate. But they would not be able to solo. They would not be able to do anything...

(CROSSTALK)

THOMPSON:

I understand. But if I'm a bad guy, I don't -- I don't need the certificate or anybody else. You've taught me how to fly the plane.

PISTOLE:

Yes.

THOMPSON:

And I'm on the no-fly list.

PISTOLE:

Yes.

THOMPSON:

And at this point, that's still the case.

PISTOLE:

That's the case. And that still is an issue that has to be addressed.

THOMPSON:

What's your plan on addressing it?

PISTOLE:

Yes, so, it's both with us, and I welcome Congress' look at how that could be addressed. But it really is a matter of the timing of making sure that the check against the terrorist watch list is done prior to certification.

THOMPSON:

Can you just set a policy that...

PISTOLE:

Well, so, it's FAA also, so we need to work with FAA. We can set the policy but they're the ones who issue the certificate.

THOMPSON:

So, are you prepared to tell the committee that since we can train somebody to fly who's on the no-fly list, it's your recommendation that that person not be allowed to fly unless they are first pre-cleared to not be on the no-fly list?

PISTOLE:

Well, that would be the best security. There's a lot of aspects to that.

THOMPSON:

I guess I'm not trying to do semantics, Mr. Pistole. Right now, some of us see that as a problem, that we can still train people to fly who are on the no-fly list. And I think if that requires legislation, which it should not, and I think we will talk to you and -- and -- and people at the FAA to see if we can get it resolved.

PISTOLE:

So far, if I could just address that briefly. The other aspect, which you're not asking about, but is the intelligence collection here in the U.S....

(CROSSTALK)

PISTOLE:

... which a no-fly person, somebody in the government should know that person's going to flight school.

(CROSSTALK)

THOMPSON:

I asked the question that I wanted to. It doesn't matter whether I didn't ask about anything else.

PISTOLE:

I was simply offering additional information that may help...

(CROSSTALK)

THOMPSON:

That's fine. All I want to know is do you train people to fly who are on the no-fly list. And the answer I would assume is yes.

PISTOLE:

Some private flight schools can train anybody who comes in.

THOMPSON:

That's fine.

PISTOLE:

Hopefully, if they're on the no-fly list, my former organization, Joint Terrorism Task Force, would know that person is going to a flight school, and that's my point.

THOMPSON:

Right, Mr. Chairman, do you plan to cooperate with EEOC on their investigation with TSA?

PISTOLE:

We have been cooperating. We plan to continue cooperating on whatever issues there are.

THOMPSON:

Thank you.

PISTOLE:

Thank you.

HUDSON:

I thank the gentleman, I thank Administrator Pistole for his testimony, and members for their questions. Members of the committee may have some additional questions for the witness, and we'll ask that you respond to these in writing.

Without objection, the committee stands adjourned.